

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MASSACHUSETTS**

**In re: PHARMACEUTICAL INDUSTRY  
AVERAGE WHOLESAL PRICE  
LITIGATION**

**THIS DOCUMENT RELATES TO:**

*State of Montana v. Abbott Labs., Inc., et al.,*  
CA No. 02-CV-12084-PBS

MDL NO. 1456

Civil Action No. 01-12257-PBS

Judge Patti B. Saris

Chief Magistrate Judge Marianne B.  
Bowler

## REQUEST FOR ORAL ARGUMENT

**DEFENDANT BAYER CORPORATION'S MOTION FOR LEAVE TO FILE A REPLY  
MEMORANDUM IN SUPPORT OF ITS FIRST MOTION TO COMPEL PLAINTIFF  
THE STATE OF MONTANA TO PRODUCE A RULE 30(B)(6) WITNESS**

Pursuant to Local Rule 7.1(b)(3), Defendant Bayer Corporation (“Bayer”) hereby moves for leave to file the attached Proposed Reply Memorandum in Support of Its First Motion to Compel Plaintiff the State of Montana to Produce a Rule 30(b)(6) Witness (the “Motion”). The Motion demonstrated that Bayer’s 30(b)(6) Notice was timely served and seeks clearly relevant testimony. Montana’s Opposition to Bayer’s Motion includes misstatements of fact and misleading statements of law. By correcting these misstatements, the Reply Memorandum will aid the court in considering the issues raised by Bayer’s Motion.

WHEREFORE, Bayer respectfully requests that the court grant Bayer leave to file the attached Reply Memorandum in Support of Its First Motion to Compel Plaintiff the State of Montana to Produce a Rule 30(b)(6) Witness.

**Certification Pursuant to Local Rules 7.1 and 37.1**

Pursuant to Local Rules 7.1(a)(2) and 37.1 of this Court, the undersigned counsel certifies that counsel for Bayer has conferred unsuccessfully with Montana's counsel in an effort to reach a resolution on the Rule 30(b)(6) discovery request on which the parties have reached impasse.

May 5, 2006

/s/ Jaime L.M. Jones  
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**CERTIFICATE OF SERVICE**

I hereby certify that on May 5, 2006, I caused a true and correct copy of Defendants Bayer Corporation's Motion For Leave To File a Reply Memorandum in Support of Its First Motion to Compel Plaintiff the State of Montana to Produce a Rule 30(b)(6) to be served on all counsel of record by electronic service pursuant to Case Management Order No. 2 in MDL No. 1456.

/s/ Jaime L.M. Jones